STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

February 28, 2006

Department of the Interior
Minerals Management Service
Attention: Rules Processing Team (RPT)
381 Elden Street, MS-4024
Herndon, VA 20170-4817

Re: Alternate Energy-Related Uses on the Outer Continental Shelf, RIN 1010 – AD30

To Whom It May Concern:

Thank you for the opportunity to review the Minerals Management Service's (MMS) ANPR on the development of a regulatory program to implement portions of the Energy Policy Act of 2005, Section 388 – Alternate Energy-Related Uses on the Outer Continental Shelf. Possible renewable alternative sources include wind, wave, current and solar power. We support the investigation and development of such alternate energy sources, consistent with all prudent and appropriate environmental protection.

We offer the following responses to the questions listed for each Program Area. While the federal register notice of December 30, 2005 requests input on a comprehensive list of questions relative to the subject activities, our comments below are referenced specifically to those lettered and numbered items that bear on environmental resources and concerns.

Program area: Access to OCS Lands and Resources

General issues:

E. The MMS should identify geographical areas for resource and site assessment and development feasibility through consideration not only of potential energy resources and the energy needs of adjacent coastlines, but also of environmental impacts. The potential impacts of offshore windfarms on migratory birds, and of subsurface structures on movement of marine mammals, is of particular concern.

Specific questions:

2. Phased access rights, allowing for resource and/or site assessments and research prior to securing additional access rights is of particular importance, so that environmental impacts can be assessed on a continual basis, and so that impacts can be reduced or mitigated as necessary. This assessment process is important whether or not development rights are secured by a competitive process.

4. An area of geographical interest to any given shoreside locale could be considered to be that area within which development activities might have local effects, such as construction of support facilities for the offshore development.

5. Prior to competition for lease sites, MMS should require completion of an environmental assessment or impact statement consistent with NEPA standards. All living and non-living marine resources and the effects of the proposed development activities upon those resources, and upon water quality, must be identified. Socioeconomic impacts on coastal water-dependent uses should also be identified and evaluated.

7. In developing a program, MMS should establish broad program goals and objectives, but must also target specific areas of a size discreet enough to effectively assess localized environmental impacts.

8,9. Similar to the process for assessment of OCS oil and gas development, MMS should consider any disruptive impacts of, or other socioeconomic conflicts created by, alternate energy facility construction and operation on existing onshore and offshore activities, such as those pertinent to commercial and recreational fishing and marine transportation.

10. Resource data collected in the course of environmental assessments should be available to states and other resource management agencies/entities.

11. MMS should consider all of the suggested criteria (environmental, energy, economics) in deciding whether or not to approve a project and for evaluating competing projects for the same site.

Program area: Environmental Information, Management and Compliance
We concur with the listed components and measures for development of environmental protection protocols relative to OCS alternate development activities.

General issues:
K,L,N. Information required for environmental management systems for OCS alternate energy projects should include, in particular, identification of finfish and other living marine resources (including marine mammals, turtles and birds) and Essential Fish Habitat (EFH). The environmental and socioeconomic impacts of alternate energy development such as those on the recreational and commercial fisheries industries that may be affected by such development, should also be documented. The cumulative risks and impacts of the proposed activities on those resources and uses must be evaluated. This information is necessary to balance environmental considerations with national energy needs.

Specific questions:
12,13. MMS should require information about the effects or potential effects of project activities on reproductive success, population viability/sustainability, community structure and species diversity, disruption of migratory patterns or activities of affected wildlife, as well as effects on forage populations, and food supply. Studies should be conducted at times when resident and migratory species and populations of concern are present and most vulnerable to potential disturbance. Studies should be conducted by qualified investigators whose prior work has been subject to peer review.

14. The goals of monitoring, mitigation and enforcement activities conducted pursuant to the investigations cited above should be to assure that any environmental resources that are the subject of those investigations shall be protected to the greatest extent possible. Approaches for mitigating impacts such as those listed above should include modification of timeframes during which facilities are operated, or the extent to or location in which they are operated. The effectiveness of such mitigation will be determined by the restoration or revitalization of any degraded resources.

16. The most effective regulatory program element with which to ensure environmental compliance is preapplication consultation to identify affected resources, potential adverse impacts, and mitigation strategies.

17. Environmental management systems should be monitored on an ongoing basis by the applicant (i.e., the industry) and the MMS. It should be MMS' responsibility to maintain oversight and governance of OCS activities through implementation and enforcement of operating parameters both for compliance environmental and other requirements.

Program area: Operational Activities

General issues:

Q. Environmental resources should be protected during facility construction and removal by enactment of species- or population-specific mitigation measures, for example, by imposition of seasonal restrictions on activities to protect migrating or reproducing wildlife. Resources should be protected during facility production or operation by similar measures. Resources may also be protected on a real time basis through constant monitoring of wildlife and other resources and responsive modification of facility operations as necessary to avoid potential adverse impacts.

W. Permitting of OCS development, both oil and gas and alternate energy production, should include conditions governing disposal of waste materials from those facilities.

Specific questions:

18. Alternatives to facility removal depend on the nature of the facility. Spent facilities that do not pose a threat of hazardous waste discharges or a threat to safe navigation or utility infrastructure, may be able to function as artificial reefs.

19,20. Engineering and safety considerations pertaining to OCS alternate energy facilities, depending on the nature and location of the facility, are most likely the same as those appropriate to OCS oil and gas development, given their common operation in a dynamic ocean environment.

21. The suggested monitoring protocol (annual on-site inspections with verification of operating plans) would seem to represent a minimum or threshold program. Monitoring procedures established for OCS oil and gas facilities and operations may or may not serve as a model for alternate energy facilities. Seasonal inspections may be appropriate in areas where environmental conditions vary seasonally. Inspections prior to and following environmentally rigorous seasons may be appropriate (e.g., hurricane season in the Gulf of Mexico or winter in the North Atlantic).

Program area: Payments and Revenues

Specific questions:

23,24. Payments by alternate energy developers for leases, easements or rights-of-way should, as suggested, try to capture the opportunity costs of other activities displaced by such energy development. Legitimate opportunity costs include those of the fishing and recreational boating industries, and other affected tourism enterprises. The payment structure should also be designed, however, so that it is not burdensome on the newly developing alternate energy industry, so as to encourage the success of the industry. The payment structure might be adjusted on a sliding scale as revenues increase.

28. The public benefits to society of increased reliance on renewable energy include improved air quality and water quality that result, respectively, from reduced combustion of fossil fuels and from the reduced potential for pollution from fuel oil spilled during recovery or transport. Environmental and public health benefits will also accrue from reduction in the need for coal production. While these environmental and health benefits may be offset in the short-term by concomitant reductions in employment in those fields, expanding alternate energy production will eventually compensate for those economic losses.

Program area: Coordination and Consultation

Specific questions:

31. OCS alternate energy program development should occur on multiple levels. A broad approach is necessary to establish an institutional framework and set national priorities and goals. In practice, the program must be administered on a regional level, targeting regional or more discretely identified resources and addressing the specific impacts associated with development of those resources, and thus necessitating coordination and consultation at that regional level.

32. More information on the prospective functioning of Federal/state cooperatives for targeted areas would be helpful, prior to commenting on that proposal. It would be useful in terms of establishing stakeholder support to solicit comments on which areas of the OCS should be included in or excluded from the program, similar to the process used for OCS oil and gas program formulation. Continued coordination and consultation is advantageous in areas that have been included, so as to gauge evolving public attitudes toward the effort and to maintain public support for successful projects. Coordination and consultation is also important in areas that have been excluded as a means of informing the public and institutional entities of successful efforts elsewhere that may over time become acceptable to program opponents.

If you have any questions regarding the above comments, please call Tom Ouellette of this Office at 860-424-3034.

Sincerely,

Charles H. Evans
Director
Office of Long Island Sound Programs

CHE/TO/to

cc: Bill O'Bierne

STATE OF CONNECTICUT
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Subject: Alternate Energy-Related Uses on the Outer Continental Shelf – RIN 1010-AD30

Date: March 1, 2006

No. Pages: 5, including cover page

Please accept the attached comments on Alternate Energy-Related Uses on the Outer Continental Shelf, dated February 28, 2006.